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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,731	12/10/2003	Timothy M. Holub	306230	6694
33042 7590 07/26/2007 LEYDIG, VOIT & MAYER, LTD. (SEATTLE OFFICE) TWO PRUDENTIAL PLAZA SUITE 4900 CHICAGO, IL 60601-6731			EXAMINER YIP, WINNIE S	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 07/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/732,731	Applicant(s) HOLUB, TIMOTHY M.	
	Examiner Winnie Yip	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-23 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-23 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on April 30, 2007.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

1. Claim 21-23, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US Patent No. 5,732,726) in view of Pui et al. (US Patent No. 5,842,939).

Lee shows and teaches a shelter (10) comprising: a pole assembly comprising at least one hub (42), a plurality of upright pole each including an upper pole segment (16) being removably attached to the hub by a connection, a plurality of lower pole segment (14) connected to the respective upper pole segment (16) so that the lower pole segment is more vertical with respect to a surface than the upper pole segment when the shelter is erected on the surface, the connection between the upright pole and the respective hub including a plurality of tubular members (60) formed on the respective hub, each tubular member (60) having a tubular opening (64) and a locking slot, at least two upper pole segments each having one end being inserted into the opening (64) and having a spring detent biased into the slot such that the upper pole segments of the upright pole being removably and non-rotatably connected to the hub, and a canopy supported by the pole assembly. Lee does not teach the connection comprising an oblong cross section for the hub and an oblong cross section for the first upper pole segment such that the two oblong cross sections connecting together so that the upper pole segment does not rotate relative to the hub. However, Pui et al. teach a portable shelter comprising a pole assembly including a plurality of hubs (12A, 12C, or 12B) having two tubular members, each tubular member having

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an oblong cross section (12AB), a plurality of pole segments each having a oblong cross section with two opposite flat portions being inserted into the oblong cross section of the tubular member of the hub such that the flat portions of the oblong cross sections being connected together so the pole segment (14A) does not rotate relative to the hub (12A, 12B, or 12D). It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the shelter of Lee having the end of the upper pole segment and the tubular opening of the tubular members of the hub having matting oblong cross sections to provide alignment between two tubular member as taught by Pui et al. for easily connection between the two tubular members and for providing a removable attachment but non-rotatable connection between a hub and the poles.

Regarding claim 27, Lee further teaches the shelter, see Fig. 4, including four upright poles each removably connected to the hub.

Regarding claims 28, Lee further teaches the shelter may have other alternative embodiment, shown in Fig. 2, including two roof hubs (42), each hub having two tubular members to receive two upright poles respectively and a tubular member to revive at least one horizontal pole (40) for connection between two hubs as claimed.

Wherein, each of the connection between the upright poles and the tubular members of the hubs would have been obvious to be formed with oblong cross section as taught by Pui et al. for proving non-rotatably connection therebetween. But the horizontal pole connected to the least one tubular member of the hub being rotatable connected with each other relatively.

Response to Arguments


2. Applicant's arguments with respect to claims 21-23 and 26-28 have been considered but are moot in view of the new ground(s) of rejection.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Winnie Yip
Primary Examiner
Art Unit 3636

wsy
July 20, 2007